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FISCAL IMPACT REPORT

SPONSOR Marquart DATE TYPED 03/12/05 HM 62

SHORT TITLE Enforce Highway Beautification Act SB _____

ANALYST Moser

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
NFI	NFI				

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Department of Transportation

SUMMARY

Synopsis of Bill

This memorial would strongly encourage the New Mexico Department of Transportation (NMDOT) to vigorously enforce the Highway Beautification Act, so as to cause the abatement and removal of junkyards within the state. The memorial would also require the NMDOT to report to the New Mexico Legislature on or before November 1, 2005 concerning its junkyard enforcement efforts.

Significant Issues

The NMDOT argues that although this memorial would seem to have the worthy goal of assuring the removal or abatement of junkyards within the state, it fails to take into account the limited remedies and problems contained within the applicable statutes. The Highway Beautification Act, in pertinent part, charges the NMDOT with licensing, and regulating New Mexico junkyards. Secs. 67-12-1, et seq. NMSA 1978. However, the NMDOT is left with little real enforcement authority, which would bring about the remediation or removal of junkyards.

The Act provides that junkyards are allowed to seek and receive a license from the NMDOT. They are to pay a minimal annual fee under the act. Most, if not all true junkyards are licensed and current with their fees. In the few instances where they have been late, a letter has brought quick compliance. Further, junkyards legally in existence when the act was enacted are to be

considered “grandfathered” for purposes of enforcement.

If the NMDOT determines that a junkyard should be moved, screened or removed, the act provides this is to be done through a procedure similar to the condemnation process. Damages are to be paid to the owner for his losses or damage. However, the Act provides that no damages are to be paid where there is no “federal aid participation” (Sec. 67-12-10 (D) NMSA 1978). Accordingly, the NMDOT cannot pay damages unless there are federal funds to help pay them. The NMDOT has been advised by representatives of the Federal Highway Administration (FHWA) have informed that no federal funds are available for this purpose and that the NMDOT should confine its enforcement activity to the collection of the annual fee. The Act does not provide any other enforcement mechanism that would not require federal funds. This has had the effect to basically prevent the NMDOT from taking any actions to effect the removal or abatement of New Mexico junkyards. In the absence of such funding, the NMDOT is limited as to its options to bring about the removal or abatement of junkyards within New Mexico. NMDOT feels that the passage of this memorial by itself would have little or no effect upon that situation

GM/rs:lg